

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

YAKIMA VALLEY MEMORIAL
HOSPITAL, a Washington
Nonprofit Corporation,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF HEALTH; MARY C. SELECKY,
in her official capacity as
Secretary of the Washington
State Department of Health,

Defendants.

NO. CV-09-3032-EFS

**ORDER DENYING DEFENDANTS'
MOTION FOR RECONSIDERATION AND
DENYING AS MOOT DEFENDANTS'
MOTION TO SEAL**

Before the Court, without oral argument, are Defendants Washington State Department of Health and Mary Selecky (collectively, "Defendants") Motion for Reconsideration of Order Granting Yakima Valley Memorial Hospital's Motion to Strike Portions of Supplemental Declaration, ECF No. [280](#), related Motion to Expedite, ECF NO. [284](#), and Motion to Seal Defendants' Brief in Opposition to Plaintiff's Motion to Exclude Dr. Keith B. Leffler's Expert Testimony and Supporting Declarations and Exhibits, ECF No. [271](#). After reviewing the parties' submissions, the record in this matter, and applicable authority, the Court is fully informed. For the reasons set forth below, the Court denies Defendants' motion for reconsideration and denies as moot Defendants' motion to seal.

1 **I. Motion for Reconsideration**

2 Defendants ask the Court to reconsider its May 18, 2012 ruling
3 granting Plaintiff Yakima Valley Memorial Hospital's (YVMH) Motion to
4 Strike Parts of Defendants['] Reply to Memorial's Opposition to Summary
5 Judgment and Declarations of Bart Eggen and John Raba, M.D., ECF No. [277](#)
6 at 6-7, on the ground that they did not have the opportunity to oppose
7 YVMH's motion. Defendants ask the Court to expedite hearing on their
8 motion so that it may be heard before their pending motion for summary
9 judgment, ECF No. [133](#).¹

10 Under the Court's Amended Scheduling Order in effect at the time of
11 Defendants' motion (which has since been superseded, see ECF No. [292](#)),
12 motions to reconsider must be brought in accord with CR 7(h) of the local
13 rules for the United States District Court for the Western District of
14 Washington. ECF No. [85](#) at 6-7. That Rule provides:

15 (1) *Standard*. Motions for reconsideration are disfavored. The
16 [C]ourt will ordinarily deny such motions in the absence of a
17 showing of manifest error in the prior ruling or a showing of
new facts or legal authority which could not have been brought
to its attention earlier with reasonable diligence.

18 W.D. Wash. CR 7(h). See also *Motorola, Inc. v. J.B. Rodgers Mech.*
19 *Contractors*, 215 F.R.D. 581, 583-86 (D. Ariz. 2003) (surveying local
20 rules of districts throughout the Ninth Circuit that pertain to motions
21 for reconsideration).

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23 ¹ Though the Court reiterates its earlier admonition that motions to
24 expedite are only to be filed for "emergency matter[s]," see ECF No. [277](#)
25 at 2-3, the Court finds good cause to hear Defendants' motion on an
26 expedited basis.

1 Because Defendants' motion does not satisfy the above-cited
2 standard, but rather directly addresses the arguments made in YVMH's
3 moving papers, it does not demonstrate that the Court should reconsider
4 its earlier ruling. Furthermore, while the Court does not strike all of
5 the materials referenced in YVMH's motion, the Court remains convinced
6 of the propriety of its rather unremarkable ruling that it "will not
7 consider irrelevant statements or legal conclusions in ruling on
8 Defendants' motion for summary judgment." ECF No. [277](#) at 7. Accordingly,
9 Defendants' motion for reconsideration is denied.

10 **II. Motion to Seal**

11 Defendants move to seal their materials submitted in response to
12 YVMH's Motion to Exclude Dr. Keith B. Leffler's Expert Testimony because
13 they reference materials filed by YVMH that were placed under seal on
14 April 26, 2012. See ECF No. [210](#). In their memoranda, Defendants state
15 that if the Court granted their then-pending motion to unseal the April
16 26, 2012-sealed filings, its motion would be moot. On May 18, 2012, the
17 Court granted Defendants' motion to unseal. ECF No. [277](#) at 3.
18 Accordingly, because the Court has already unsealed the referenced
19 materials, Defendants' motion to seal is denied as moot.

20 **III. Conclusion**

21 For the reasons discussed above, **IT IS HEREBY ORDERED:**

22 1. Defendants' Motion to Expedite Hearing on Their Motion for
23 Reconsideration of Order Granting Yakima Valley Memorial Hospital's
24 Motion to Strike Portions of Supplemental Declaration, **ECF No. [284](#)**, is
25 **GRANTED.**

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3. Defendants' Motion to Seal Defendants' Brief in Opposition to Plaintiff's Motion to Exclude Dr. Keith B. Leffler's Expert Testimony and Supporting Declarations and Exhibits, **ECF No. 271**, is **DENIED as moot**.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and distribute copies to counsel.

DATED this 19th day of June 2012.

s/Edward F. Shea

EDWARD F. SHEA
Senior United States District Judge